

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BLOCKCHANGE VENTURES I GP, LLC,

Plaintiff,

-v-

BLOCKCHANGE, INC.,

Defendant.

21 Civ. 891 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

Blockchange Ventures I GP, LLC (“Plaintiff”), a New York company, has sued Blockchange, Inc. (“Defendant”), a California company, alleging trademark infringement, trademark dilution, and unfair competition under the Lanham Act; common law trademark infringement and unfair competition; deceptive acts and practices in violation of New York General Business Law (“GBL”) §§ 349 and 350; and trademark dilution under GBL § 360-L. *See* Dkt. 1.

Pending now is Defendant’s motion to suspend the authorization of limited jurisdictional discovery and revive its motion to dismiss under Federal Rules of Civil Procedure 12(b)(6). For the reasons that follow, the Court grants this motion and schedules an initial pretrial conference.

On February 25, 2021, Defendant filed a motion to dismiss Plaintiff’s complaint under Federal Rules of Civil Procedure 12(b)(2), 12(b)(3), and 12(b)(6), for lack of personal jurisdiction, lack of venue, and for failure to state a claim upon which relief can be granted. Dkt. 11. On July 22, 2021, the Court authorized limited jurisdictional discovery for the purpose of determining whether the Court could exercise personal jurisdiction over Defendant. *See* Dkt. 17

(“Order”). On August 13, 2021, the Court received Defendant’s letter conceding personal jurisdiction and requesting the suspension of the authorization of limited discovery, Dkt. 18 (“Def. Ltr.”), and Plaintiff’s letter asking that jurisdictional discovery continue, notwithstanding Defendant’s concession of personal jurisdiction, Dkt. 19 (“Pl. Ltr.”).

Plaintiff notes that Defendant has identified only one New York customer, and seeks further details about Defendant’s contacts with New York. Pl. Ltr. at 1. But the existence of that customer is sufficient to support personal jurisdiction under CPLR § 302(a)(1), as Defendant concedes. Def. Ltr. at 1. There is therefore no charter for deferring forward progress as to the merits of this case. The Court accordingly suspends the limited jurisdictional discovery. Should the case proceed to merits discovery, Plaintiff will be at liberty to propound limited discovery to fortify further the factual basis for personal jurisdiction.

The Court also grants Defendant’s motion to revive its motion to dismiss under Fed. R. Civ. P. 12(b)(6). The Court will resolve that motion, which is fully submitted, in due course. The Court treats Defendant’s 12(b)(2) and 12(b)(3) motions as withdrawn. The Clerk of Court is respectfully directed to terminate the motion pending at docket 18.

An initial pretrial conference is hereby scheduled for **August 26, 2021 at 10 a.m.** This conference will be held telephonically. The parties should call into the Court’s dedicated conference line at (888) 363-4749, and enter Access Code 468-4906, followed by the pound (#) key. **Counsel are directed to review the Court’s Emergency Individual Rules and Practices in Light of COVID-19**, found at <https://nysd.uscourts.gov/hon-paul-engelmayer>, for the Court’s procedures for telephonic conferences and for instructions for communicating with chambers.

All conferences with the Court are scheduled for a specific time; there is no other matter scheduled for that time, and counsel are directed to appear promptly. All pretrial conferences must be attended by the attorney who will serve as principal trial counsel.

The Court directs counsel for all parties to:

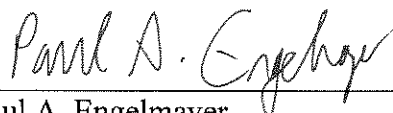
- Confer with each other prior to the conference regarding settlement and each of the other subjects to be considered at a Federal Rule of Civil Procedure 16 conference.
- Prepare a Civil Case Management Plan and Scheduling Order in accordance with the Court's Individual Rules, available at <https://nysd.uscourts.gov/hon-paul-engelmayer>, to be submitted to the Court no later than **August 20, 2021**.
- Prepare a joint letter, not to exceed three pages in length, to be submitted to the Court no later than **August 20, 2021**, addressing the following topics in separate paragraphs: (1) a brief description of the case, including the factual and legal bases for the claim(s) and defense(s), and the history of the case; (2) any contemplated motions; (3) the prospect for settlement; and (4) the parties' views as to whether discovery should proceed while the motion to dismiss under Rule 12(b)(6) is pending. For the Court's convenience, the parties are requested to set forth the date and time of the conference in the opening paragraph of the letter.
- Register as filing users in accordance with the Procedures for Electronic Case Filing prior to the date of the initial pretrial conference.

If this case has been settled or otherwise terminated, counsel are not required to appear, provided that a stipulation of discontinuance, voluntary dismissal, or other proof of termination is sent prior to the date of the conference via e-mail to the Orders and Judgment Clerk at the following e-mail address: orders_and_judgments@nysd.uscourts.gov.

Requests for adjournment may be made only in a writing received no later than two business days before the conference. The written submission must comply with Section 1.E of the Court's Individual Rules. Unless counsel are notified that the conference has been adjourned, it will be held as scheduled.

Plaintiff's counsel is directed (1) serve a copy of this order upon all attorneys in this action, and (2) to file proof of such notice with the Court. If plaintiff's counsel is unaware of the identity of counsel for any of the parties, plaintiff's counsel must forthwith send a copy of this order to that party personally.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: August 16, 2021
New York, New York